The Persistence of Cliques in the Postcommunist State. The Case of Deniability in Drug Reimbursement Policy in Poland[1]

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Abstract

This article explores a key question in political sociology: Can postcommunist policy-making be described with classical theories of the Western state or do we need a theory of the specificity of the postcommunist state? In so doing, we consider Janine Wedel's clique theory, concerned with informal social actors and processes in postcommunist transition. We conducted a case study of drug reimbursement policy in Poland, using 109 stakeholder interviews, official documents and media coverage. Drawing on 'sensitizing concepts' from Wedel's theory, especially the notion of 'deniability', we developed an explanation of why Poland's reimbursement policy combined suboptimal outcomes, procedural irregularities with limited accountability of key stakeholders. We argue that deniability was created through four main mechanisms: (1) blurred boundaries between different types of state authority allowing for the dispersion of blame for controversial policy decisions; (2) bridging different sectors by 'institutional nomads', who often escaped existing conflicts of interest regulations; (3) institutional nomads' 'flexible' methods of influence premised on managing roles and representations; and (4) coordination of resources and influence by elite cliques monopolizing exclusive policy expertise. Overall, the greatest power over drug reimbursement was often associated with lowest accountability. We suggest, therefore, that the clique theory can be generalized from its home domain of explanation in foreign aid and privatizations to more technologically advanced policies in Poland and other postcommunist countries. This conclusion is not identical, however, with arguing the uniqueness of the postcommunist state. Rather, we show potential for using Wedel's account to analyse policy-making in Western democracies and indicate scope for its possible integration with the classical theories of the state.

Keywords:

Poland; state theory; postcommunism; drug reimbursement; institutional nomads; cliques

Introduction

The postwar sociological theory of the Western state has been dominated by five competing traditions. The 1950s saw a debate between pluralism (McFarland 2004) and Marxism (Miliband 1973; Poulantzas 1976). The centrality of this opposition was soon questioned by elitism (Mills 2003) and corporate domination theory (Domhoff 2006). Another contender joining in the 1980s was historical institutionalism (Skocpol 1985). Only in the 1990s, the status quo between these traditions was challenged by new accounts stressing, for example, the growing prominence of governance levels beyond the nation-state (Strange 1996).

A key test for the durability of the classic state theories was the fall of communism in Central and Eastern Europe (CEE). The prevalent view on countries such as Poland, Hungary or the Czech Republic holds that they have developed formal institutions similar to their West European neighbours (McMenamin 2005) and thus can be described with concepts taken from pluralism (Ekiert and Kubik 2001), historical institutionalism (Grzymała-Busse 2007) or elitism (Raciborski 2006). This position has been disputed by scholars stressing the need for a new vocabulary to capture informal actors and processes permeating postcommunist states (Zybertowicz 2005 – for a critical account of this position see Warczok and Zarzycki 2014). The most influential representative of this academic camp is Janine Wedel, who conducted extensive ethnography of foreign aid in CEE to explore interactions among 'discourses, actors, and institutions' (Wedel 2001: 219) shaping the distribution of power in postcommunist society. While Wedel's inductive mode of theory development did not involve testing propositions systematically against the classical theories, her argument merits, we believe, the status of an emerging theory of the postcommunist state. Given the emphasis it places on the activity of elite cliques, we term it the 'clique theory' (for a critique of Wedel's argument see Sadowski 2011).

According to Wedel (2001), the rise of 'cliques' can be traced to the spread of informal networks circumventing the communist 'shortage economy' and authoritarian state, followed by the emergence of a 'power vacuum' after the rapid fall of the communist state. The two processes triggered the colonization of strategic locations in the postcommunist public, private and third sectors by elite cliques consisting of informal networks. The cliques became the primary partner for international public and private actors (Wedel 2001, 20004), and a key element of the postcommunist power elite. Clique domination of the postcommunist state contrasts with the classical theories, emphasizing either the role of bureaucratic elites (historical institutionalism), the corporate, military and political establishment (elitism), an intersection of the upper class, corporate community and 'corporate experts' (corporate domination theory), the domination of the state by the bourgeoisie (Marxism) or the dispersion of power among a multitude of interest groups (pluralism).

Wedel specifies several mechanisms that reproduce clique power. Following Kamiński and Kurczewska's (1994) work, individual clique members are described as 'institutional nomads'. These actors blur the public-private divide by continually moving between different sectors or playing roles in multiple organizations, often with conflicting agendas. This practice is rarely addressed by conflict of interest regulations, and is therefore referred to as 'coincidences of interest' (Wedel 2009). A similar mechanism, contrasting with the rational-bureaucratic state variety described by historical institutionalists, concerns creating 'agencies', organizations with unclear public-private status able to privatize state power in the absence of strong accountability regulations (Wedel 2004). Also, unlike pluralism and corporate domination theory, focusing on lobbying through formal access channels, Wedel's analysis emphasizes 'flexible' methods of influence ranging from informal persuasion of clique members to manipulating their many representations in interactions with different audiences. Finally, influence exercised by institutional nomads is coordinated by cliques,

bound by a mixture of trust and complicity emerging from involvement in (nearly) illegal dealings (Wedel 2001).

Taken altogether, a central feature of the activity of institutional nomads and their cliques is 'deniability' (Wedel 2004, 2009) or 'institutionalised lack of responsibility' (Hausner and Marody 2000). As Wedel (2004: 225) emphasizes,

> because actors can change their agency, they always have an 'out'. They can evade culpability for actions that might be questioned by one of the parties by claiming that their actions were in the service of the other.

That is, institutional nomads use blurred institutional boundaries, their own unclear roles, flexible forms of influence and coordination through cliques to make themselves less answerable to democratic, bureaucratic and market regulations.

Wedel's research on deniability corresponds with Hood's (2011a, 2011b) work on 'blame avoidance strategies' used by policymakers in Western bureaucracies to minimize accountability before legislatures and the media. Most relevant for us is the 'agency strategy', concerned with affecting the perception of blame by 'creative allocation of formal responsibility, competency, or jurisdiction among different units and individuals' (Hood 2011b: 17, 67). The primary variants of this strategy comprise 'delegation of responsibility down the line or out from the center', 'defensive reorganisation or staff rotation', reliance on 'partnership structures' and 'government by the market' (Hood 2011b: 70) (Web Appendix I compares the notions of deniability and blame avoidance in greater detail).

Wedel's argument is consistent with research on informal power structures in Poland. For example, a seminal case study of the coal mining sector found that it was ruled by a tightly-knit social network comprising managers and board members at publically and privately-owned companies, regulators and experts (Gadowska 2002). More recently, it has been argued that the distribution EU funds for infrastructure development is managed by

cliques including politicians, civil servants and private sector subcontractors (Zybertowicz and Lichocka 2013). A next step in developing Wedel's account may involve an examination of a policy process involving extensive utilization of expert knowledge, which theoretically should minimize reliance on informal mechanisms of influence preferred by cliques. We apply this approach by considering drug reimbursement, a primary area of Poland's pharmaceutical policy. In particular, drawing on Wedel's theoretical proposition we will seek to identify what (if anything) is unique about the Polish postcommunist state.

This will be, to our knowledge, the first application of Wedel's account in the political sociology of pharmaceuticals, increasingly dominated by accounts aligned with the main traditions in state theory. For example, Carpenter's (2010) argument about the Food and Drug Administration's (FDA) dominant power over the US pharmaceutical market is consistent with historical institutionalism. By contrast, the 'disease-based politics' theory (Daemmrich 2004), demonstrating patient organizations' effectiveness in securing favourable policies from the FDA, corresponds with pluralism. Finally, Abraham's (2009; Davis and Abraham 2011) theory of 'neoliberal corporate bias' resembles the corporate domination position in highlighting the pharmaceutical industry's superior access to and decisive influence over the policy process.

It is, however, the latter position that has received the strongest support in detailed studies of pharmaceutical policy in the USA and the UK, demonstrating pharmaceutical companies' lobbying of policymakers and the revolving door with regulatory institutions (Abraham 2002), forging financial and other links with expert advisory committees (Abraham 2002; Abraham and Davis 2009), using patient ogranizations as seemingly independent third parties generating political pressure (Abraham 2009; Davis and Abraham 2011) and corporate control over the conduct and dissemination of results of clinical trials (Krimsky 2003). Against this background, we will seek to enrich our understanding of

informal social actors and mechanisms involved in drug reimbursement, an area of pharmaceutical policy thus far receiving limited scholarly attention (exceptions include Abraham 2009). Specifically, we will explore institutional nomads and cliques acting on behalf of multinational drug companies aiming to secure favourable conditions in Poland's state-funded drug reimbursement schemes.

In the remainder of this article we first explain why we decided to investigate Poland's drug reimbursement. We then detail our methodology. Subsequently, we present our findings. Finally, we discuss the implications of our research for the theory of the state.

The puzzle of Poland's drug reimbursement policy

In the European Union (EU), drug reimbursement is managed by national authorities, with minor interference from the EU level. In Poland, drug reimbursement policy regulates prices of prescription medicines, chiefly through state subsidies. Depending on a reimbursement scheme and population or patient group, drugs can be obtained for up to 50 per cent of their original price. The decision about covering a medicine by a state reimbursement is made by the Minister of Health based on a reimbursement application submitted by the drug manufacturer. Between two major legislative reforms in 2009 and 2012, the Minister considered, but was not bound by, two recommendations – expert and bureaucratic – based on evidence generated by pharmaceutical companies. The former recommendation, taking into account drug effectiveness, safety, cost-effectiveness and budgetary impact was issued by the Consultative Council (CC), comprising ten to twelve senior medical experts based at the Agency for Health Technology Assessment (AHTAPol). The latter recommendation concentrated on the medicine's budgetary impact and was developed by the Drug Management Team (DMT), a bureaucratic body within the Ministry of Health (MoH), led by

the Director of the Department of Drug Policy and Pharmacy (DDPP). Funding for approved medicines was provided by the National Health Fund (NHF).

In a middle-income country like Poland, reimbursement policy determines patients' access to medicines, especially patent protected, 'innovative' drugs offered by multinational pharmaceutical companies (Ministerstwo Zdrowia 2004: 3). It also impacts public healthcare spending and the profitability of the pharmaceutical industry, enabling it to recuperate costs incurred by drug development and marketing. Furthermore, funding of expensive, seemingly 'life-saving' drugs for 'newsworthy diseases', such as certain types of cancer, may affect policy-makers' electoral prospects.

Despite its societal importance, Poland's reimbursement policy is characterized by suboptimal outcomes. Between 2004 and 2009 it constituted about a fifth of spending on all healthcare services (Ministerstwo Zdrowia 2010: 9–10), exceeding, among others, primary care (NFZ 2010: 180). Similarly, public and private drug expenditure amounts to 24 per cent of healthcare spending, far exceeding the OECD average of 17.1 per cent (Ministerstwo Zdrowia 2010: 10). Nevertheless, patients' access to medicines is constrained, with out-of-pocket drug spending reaching 62.4 per cent in 2009, one of the highest levels in the OECD (according to the WHO, access to drugs is impeded when patients cover over 40 per cent of drug costs) (Ministerstwo Zdrowia 2004: 7). The combination of high spending and limited access results from a complex interplay of factors including high levels of drug consumption, limited state control over prescription by doctors and the relatively low level of healthcare spending (Golinowska 2008; HiT 2011). Added to this is increasing budgetary pressure created by sky-rocketing expenditure on several 'innovative' therapies, especially for some rare diseases, whose accessibility has reached levels prevalent in the 'Old' EU (Blankart, Stargardt, and Schreyogg 2011). However, policy-makers' prioritization of several novel drugs targeting narrow rather than large patient populations has been linked to multinational

drug companies' aggressive marketing and lobbying practices (Polak 2001; Ozierański, McKee, and King 2012a).

One factor featuring prominently in the policy debate yet rarely examined by social scientists is irregularities surrounding policy development. These irregularities involved all major stakeholders in the policy process – high-ranking politicians, bureaucrats, medical experts and drug companies – and were remarkably persistent over time, with key actors rarely being held to account based on democratic rules, bureaucratic or business codes of conduct and norms of scientific good practice (Jakubiak 2009; Łapiński 2005: 108; NIK 2004: 21, 2006: 10–11, 19, 44; Piecha 2006; Polak 2011: 171, 179, 232, 281, 312–313, 348; Prokuratura Apelacyjna 2010: 147; TVN24 2012) (see Web Appendix II and III for comprehensive evidence). While the impact of these irregularities was often difficult to express as the amount of public money or health lost, these controversies were associated with prioritizing private economic gain over the interests of patients or the public budget and therefore likely to result in suboptimal policy outcomes. They can be viewed, therefore, as an aspect of general equality and efficiency problems in CEE healthcare systems caused by widespread corruption (European Commission 2013).

What many have seen as showing much promise of improving the transparency of the policy process and efficiency of reimbursement spending was health technology assessment (HTA), a form of policy analysis aiming to provide an evidence base for reimbursement decisions through considering their 'medical, social, ethical, and economic implications' (INHTA 2013). Since the mid-2000s, Poland has pioneered HTA in CEE drawing on Western institutional solutions (Niżankowski and Wilk 2009). However, while the evaluation of drugs has been increasingly compliant with formal HTA requirements (Kolasa Dziomdziora, and Fajutrao 2011), the AHTAPol, the Polish HTA agency, has experienced

strong political and corporate pressures (Niżankowski and Wilk 2009; Ozierański, McKee, and King 2012b).

Poland's reimbursement policy has been attracting an increasing amount of social science research yet without clear links to state theory. The suboptimal policy outcomes and procedural irregularities have been associated with influence exercised by drug companies over politicians, bureaucrats and medical experts (Ozierański, McKee, and King 2012a, 2012b). Nevertheless, less attention has been devoted to unaccountability of key stakeholders. For instance, official reports emphasize the intricate nature of pharmaceutical policy, resulting in 'objective difficulties' in uncovering corruption (Majewski 2007: 8). A more convincing analysis is provided by the analysis of new forms of corruption in the pharmaceutical sector, unrecognized by existing regulations (Polak 2011), without, however, a systematic examination of social resources allowing policy actors to minimize their accountability.

In this article, we apply Wedel's concept of deniability to explore why Poland's reimbursement system combined suboptimal policy outcomes and procedural irregularities with limited accountability of key stakeholders. Before we do this, we must describe how we conducted our research.

Methods

We carried out our fieldwork between May 2008 and April 2010 employing Wedel's (2001) methodology. As Table I shows, we conducted 109 in-depth, semi-structured interviews with representatives of major stakeholders in the reimbursement process. We cast a 'wide-net' to recruit interviewees (Wedel 2001: 221), combining purposive sampling (57 positive responses out of 70 interview requests) and snowball sampling (all 26 requests were successful). The total number of interviewees was 83, with 23 individuals, representing a

cross-section of stakeholders, interviewed up to three times as key informants. We stopped interviewing when subsequent interviews provided little new insight into initial data analysis (Charmaz 2006: chapter 5).

[*Table I*]

To maximize the interviewees' candour, we typically refrained from tape-recording interviews, taking extensive notes instead. The interview framework concerned several broad questions highlighted by the theories of the state: mechanisms of reimbursement policy, resources, methods of influence and relationships between stakeholders in the reimbursement process The questionnaires for each interviewee category were used flexibly to maximize access to interviewees' unique knowledge. Rather than asking possibly threatening questions about the details of specific reimbursement decisions, we focused on general social mechanisms underlying the policy process.

Combining Wedel's (2001) research with grounded theory (Charmaz 2006; Glaser and Strausss 1967), we looked for mechanisms generating deniability at different levels of Poland's reimbursement system. We initially coded the interviews using categories generated from the research questions and 'sensitising concepts' (Glaser and Strauss 1967) from Wedel's and Hood's research. The first set of codes was expanded through 'open' and 'in-vivo' coding (Glaser and Strauss 1967) based on comparing accounts of deniability offered by different interviewees. We then established code families and networks capturing the themes most grounded in the data. Towards the end of the fieldwork, we used 'theoretical sampling' (Charmaz 2006: chapter 5) to refine our analysis by follow-up interviews with the key informants. In presenting the findings, we seek to identify conditions under which the reported mechanisms might be effective, using a variety of organizational perspectives, including 'outliers' that might disprove our argument (Emerson 2001: 302; Charmaz 2006: 7–8). We also triangulated the interviews with the following data sources.

- Official documents, especially reports issued by the National Chamber of Control (NIK), Poland's main auditing body; policy papers (Ministerstwo Zdrowia); and Prosecutor's (Prokuratura Apelacyjna) investigation of a major lobbying scandal
- Press coverage of drug reimbursement in the popular and specialized press (*Rzeczpospolita*, *Dziennik*, *Rynek Zdrowia*), including case studies of procedural irregularities summarized by Polak (2011)
- Personal and organizational websites and social media (LinkedIn, Goldenline)

Overall, while not intended to account for every case of deniability reported so far (Web Appendix II), our analysis represents a first step in building a theory of deniability in Poland's reimbursement policy, potentially generalizable to other areas of postcommunist policy-making.

Generating deniability

We demonstrate how deniability was created in the reimbursement process by exploring four themes emerging from our data. We begin by examining relationships between different types of state authority involved in policy-making. We then analyse the sources of power of key policy actors and their methods of influence. Finally, we examine how influence exercised by these actors was coordinated.

Blurred institutional boundaries

The reimbursement process blurred the public and private sectors. For example, the Agency for Health Technology Assessment (AHTAPol) did not generate its own analyses but only reviewed evidence submitted by the drug companies, or, typically, HTA consultancy firms working on their behalf. A more prominent feature of the policy process was nevertheless unclear boundaries between different types of state authority. We analyse these boundaries using Hood's (2011b: chapter 4) concept of 'agency strategies', capturing how the

manipulation of lines of responsibility affects the distribution of blame – and thereby power – within the state.

Relationships between political and scientific authority in Poland's reimbursement process can be seen as 'blame avoidance through delegation' (Hood 2011b: 69) from the Minister of Health, to the Consultative Council (CC), a semiautonomous expert advisory body based at the AHTAPol. Though not legally binding, expert recommendations formed the scientific foundation of Ministerial reimbursement decisions. Deciding against a negative recommendation entailed, therefore, a high 'blame risk' (Hood 2011b: 4–9) of attracting unfavourable media coverage.

> If the Minister decided to reimburse a drug despite a negative recommendation, difficult questions would arise immediately: 'Who's behind it? Why did it happen?' (External affairs manager, multinational drug company)

However, conforming to a negative recommendation could be equally damaging for the Minister, faced with likely media campaigns orchestrated by drug companies.

> If a negative recommendation is followed by social pressure, press publications, high activity of patients' associations, the Minister may conclude that the drug is important. (Partner, multinational law firm)

In such cases, the Minister could use a semi-formal procedure (not described in legislation) and ask the CC to reconsider a drug. AHTAPol officials interviewed admitted that requests for reconsideration were rarely justified by the results of new clinical trials, or significant price decreases. Thus, by altering a negative recommendation, the CC risked undermining its scientific authority.

> Essentially, the reason to reconsider an application is the emergence of new arguments [...]. And there're problems with these arguments [...]. Taking positions in

> a different manner undermines the rationale behind the very existence of the CC, because it should take positions based on data. (High-ranking official, AHTAPol)

Nevertheless, according to some, signalling expectations might be sufficient for the Minister to achieve the desired recommendation, given several layers of control over the CC, including nominating and dismissing its members and approving recommendations, initially by the Minister and then the Minister-nominated President of the AHTAPol.

> The Minister knows what decision he wants to make and just needs to present a rationale for it. The request is supposed to let the people from the CC work it out. (Manager, domestic HTA firm)

The boundaries between political and bureaucratic authority were also unclear. In particular, the relationship between the Minister and the Drug Management Team (DMT) represented delegation to a 'blame-sharing advisory group' or 'deflecting blame downwards' within the Ministry of Heath (MoH) (Hood 2011: 27, 36). Not only were DMT recommendations not legally binding but, unlike AHTAPol recommendations, were only internal ministerial documents. None the less, if leaked to the press, a negative recommendation could delegitimize the Minister's positive reimbursement decision.

> Obviously, these are *in perfecta* regulations, i.e. without legal sanctions. But [if a DMT recommendations is not followed] we then ask: 'Why did such a breach occur?' Had there been a corrupt story behind it, we're dealing with a crime here. (Former high-ranking official, MoH)

The relationships between the Minister of Health, on the one hand, and the AHTAPol and the DMT, on the other, represented instances of 'soft delegation' or 'plastic division of responsibilities' (Hood 2011a: 175). However, the Minister enjoyed a greater scope to influence bureaucratic recommendations than expert recommendations. Given the shorter institutional distance between the DMT and the Minister (the DMT was part of the MoH), for

some years, Ministers sat at the DMT, whereas later control was exercised through senior DMT members appointed by and maintaining close working relationship with the Minister.

> If the Minister advised himself, that would definitely be unhealthy. [...] Theoretically, the Minister doesn't influence the DMT's work. In practice, all sorts of things happen, though. (Middle-ranking official, MoH)

> The others [DMT members] look at how the DDPP Director is voting and they raise their hands. They do this even though they have an independent voice. (Partner, multinational law firm)

The blurred boundaries between political and bureaucratic authority were also evident in informal price negotiations between the MoH and drug companies. As this process was not described in the legislation, some Ministers used blame avoidance through delegation to the Director of the Department of Drug Policy and Pharmacy (DDPP) to avoid partaking in sensitive talks, sometimes resulting in accusations of corruption.

> It all depends [...] whether the Minister wants to have a hand in it. There've been 'scared' Ministers who left these issues with the DDPP Director. (Former high-ranking official, MoH)

The central stage in the policy process, taking reimbursement decisions, sometimes involved a blame avoidance strategy characterized not by diffusion but expansion of the Minister's political authority. Specifically, to avoid blame, and perhaps even gain credit, for reimbursement decisions constraining patient access to novel treatments, the Minister entered the sphere of scientific authority of the European Medicines Agency by claiming that the drugs it had licenced were unsafe.

> It happens that both the AHTAPol and the DMT issue positive recommendations. But the Minister says: 'I don't know, it may be dangerous.' This is a very interesting populist argument. [...] If the drug wasn't safe, it shouldn't be on the market at all. For its safety does not depend on being reimbursed. (Partner, multinational law firm)

What enabled this strategy was the Minister's flexibility in applying formal reimbursement criteria. The legislation stated that a reimbursement decision had to be premised on evidence-based medicine criteria, including clinical effectiveness and safety, cost-effectiveness ratio and budget impact. Our interviewees sometimes complained, however, that these criteria could be ignored in practice.

> How certain drugs are placed on the [reimbursement] lists is completely unclear to me. (American diplomat)

The final stage of the reimbursement process, the funding of Ministry-approved therapies by the National Health Fund (NHF), involved 'passing blame sideways' (Hood 2011b: 37) within the government structures, from the MoH to the NHF. Formally, the funding of drugs involved implementing positive reimbursement decisions by the NHF. Nevertheless, access to complex hospital therapies was often disrupted by lengthy patient recruitment or financial problems experienced by hospitals towards the end of a fiscal year. Even so, the Minister could protect him/herself even in drastic instances of disruption by shifting blame to hospitals or the overseeing NHF by turning them into 'lightning rods' (Hood 2011a: 172) attracting public outrage.

> The stage of rationing those medical services [expensive hospital therapies] has been shifted [from the MoH] to other levels in the system. A positive reimbursement decision doesn't necessarily result in that all the waiting patients will receive their drug. This can be seen as a method of introducing savings, since many of those people who are, for example, cancer patients won't hold on and make it to become a 'cost'. (Manager, domestic HTA firm)

Overall, unclear boundaries between different types of state authority were exploited primarily by political decision-makers striving to spread the perception of blame to experts and bureaucrats, while securing the decisive impact over policy outcomes through formal and informal control. Taking these mechanisms into account helps us understand why political

elites taking scientifically dubious or unpopular reimbursement decisions enjoyed limited accountability to patients and, ultimately, voters.

Having explored the institutional set-up of the reimbursement process, we now analyse how deniability was generated by boundary-crossing actors.

Institutional nomads

Consistent with Wedel's argument, key actors in the reimbursement process often displayed characteristics of institutional nomads playing multiple roles in different sectors. Figure I summarizes the career path of person X who, according to our interviewees, enjoyed substantial informal power over Poland's drug reimbursement. X begun working as a high-ranking official at a state institution introducing HTA to Polish health care. Towards the end of this appointment, X established a consultancy firm developing HTA reports supporting reimbursement applications submitted by drug companies. Then, after a few years, X became a senior NHF official, involved in creating, based on commercial HTA reports, reimbursement schemes with extremely expensive 'innovative' drugs. Around the same time X also worked at the AHTAPol on evaluation of HTA reports, while also developing evaluations of HTA reports for pharmaceutical companies. This was followed by establishing a company evaluating HTA reports and, more recently, a non-governmental organization (NGO) advocating proposals for health care reform in Poland. Overall, X's career involved a series of switches and overlaps at the intersection of the public, private and third sector. Our interviews and a review of social networking sites suggested that there were at least several other top-level instances of people operating simultaneously in the state and the pharmaceutical sector (Polak 2011: 233).

[*Figure I*]

Multiple identities could also be acquired by operating simultaneously in different sectors. Figure II shows three typical configurations (see also Figure I).

[*Figure II*]

Relationships between these roles often generated 'coincidences of interest' whereby playing mutually reinforcing roles in different settings maximized individual profits and policy influence.

> I know a person who owns a public relations agency and at the same time holds a top position in A [a prominent NGO]. And it's for this very reason that pharmaceutical firms sign contracts with this public relations company. It 'arranges' [medical experts] from A for social meetings, conferences etc. To reach those [medical experts] you have to have good relationships with this public relations company. (Partner, multinational law firm)

In particular, coincidences of interest allowed for accumulating insider knowledge and personal connections in state organizations and then deploying them in the private and third sector.

> [An ex public official] is extremely valuable: he knows a lot, he has contacts. He has the idea of the reimbursement mechanism. So for firm X, he's so valuable not because he's so hard-working but because he has contacts which he acquired, say, in the MoH. (Journalist, weekly magazine)

Our interviews show that coincidences of interest sometimes raised doubts about public officials' loyalty to their organizations.

> It's been only recently when Z [senior official] left us and moved to a pharmaceutical company which offered him a sky-high contract. They simply bought [Z], with all [Z's] qualifications, abilities and experience. We felt very sorry, since it was so unexpected, but what can we do about it? People are only people. (High-ranking official, AHTAPol)

These coincidences of interest were often undetected by the existing system for monitoring conflicts of interests (Polak 2011: 318–319). For example, there was no policy addressing the 'revolving door' syndrome.

> A manager at such a [HTA consultancy firm] became a high-ranking official in [one of state organisations] and dealt with [HTA]. [...] [a]nd then [...] returned to the firm […] But everything is *lege artis*. (Former high-ranking official, MoH)

Furthermore, existing regulations concerning roles played in the private and third sector (AHTAPol 2011) were not applied consistently. Reports from CC sessions show, for instance, that expert X (see Figure I) reported conflicts of interest regarding one drug but was nevertheless allowed to evaluate HTA reports commercially despite working for the AHTAPol at the same time.

Overall, the configurations of resources accumulated by institutional nomads had significant potential for generating unaccountability. We now take a step further to see these assets were used to influence the policy process.

Flex influence

Institutional nomads operating in drug reimbursement pursued four major 'flex' methods of influence (Wedel 2004, 2009) characterized by situational changes of identities and bending formal rules in different sectors. These methods could be offensive or defensive, depending on whether they aimed to change or protect the policy status quo (cf. Clamen 2005: 170).

A primary offensive technique was *informal fixing* relying on personal connections to bureaucrats, politicians and experts in key positions in the reimbursement process. Given its purely informal nature, this method was often hidden behind other economic activity such as consulting or education.

> Personal relationships are vital. It's of secondary importance which firm someone represents. What's crucial is who comes on behalf of the firm. (Key account manager, multinational drug company)

> These consultants offering workshops and advisory services are in fact lobbyists. They possess individual connections through which they can achieve something. (Partner, domestic law firm)

A key case of informal fixing was exposed by a Prosecutor's investigation showing that informal negotiations between a drug company and a high-ranking MoH official over the introduction of a medicine to reimbursement were facilitated by a well-connected real estate tycoon and an influential politician not involved directly in pharmaceutical policy-making (Prokuratura Apelacyjna 2010).

Another offensive technique was *attachment* (cf. Zybertowicz 2005) whereby a special interest was covered under a general one. The prevalent form of attachment was legitimizing policy positions favourable for drug companies through associating them with patients' interests or rights.

> Firms can do very little in their own name, since this is regulated by the law. Against this background, the role of patients' organisations is gigantic. […] This results in firms concentrating on 'broadening patients' access to treatment'. (Communications manager, multinational drug company)

Similarly, associations of pharmaceutical companies were sometimes used to advance the interests of particular firms.

> There is no point for firm X in arranging an individual meeting. After a long history of allegations of corruption, it's vital for the MoH to demonstrate that the meeting is trustworthy, transparent and can be explained. If there's a group of firms, [and] this association endorses an initiative, there is no problem. […] The association serves as an umbrella. (Representative, chamber of commerce associating multinational drug companies)

Managing identities was an offensive or defensive technique (cf. Wedel 2009: 17–18) in which institutional nomads used their most comfortable identities depending on a situation. For example, some lawyers working for drug companies also acted as 'independent' media commentators.

> [Lawyers] May be used as creators of opinion. Legal newspapers publish articles signed by someone. And at the same time this person represents someone's interest. Lawyers' opinions feature very prominently in pharmacy-related topics. (High-ranking official, MoH)

Managing identities was also illustrated by the Medical Director at a pharmaceutical company who earned the reputation of 'the king of pharmaceutical lobbying' (Jachowicz 2007); and a HTA consultancy firm using the 'edu' extension in its Internet address, suggesting the educational profile of its activity (cf. Polak 2011: 97, 344–6).

Buffering, by contrast, was a purely defensive technique (cf. Zybertowicz 2005) using intermediaries to carry out actions with a high risk of negative policy consequences. For instance, some drug companies hired lobbying firms to lobby policy-makers to avoid accusations of corruption.

> We ourselves prefer not to approach decision-makers. In the current political configuration it's too risky a venture. Even if the talk is balanced and non-marketing, someone may always see us together and say that this is corruption. […] It's much better to act through an agency. (External affairs manager, multinational drug company)

A more sophisticated version of buffering was using other ministries or parliament as sources of endorsement before the MoH.

> They [drug companies] reach the MoH through other ministries. The MoH can make a lot of fuss saying a patients' association is lobbying on behalf of drug companies

> but they have to respond to a call from the Minister of Economy. (Journalist, daily paper)

A shared feature of the four methods of influence was reliance on intermediaries combining overt and covert activity. For example, although officially denied, some interviewees mentioned instances of combining routine development of HTA reports with informal fixing.

> We advise [pharmaceutical firms] on various issues. We're now interested in developing methods of persuading decision-makers. First, we want to exercise pressure. Second, we want to establish methods of manipulation, i.e. presenting data which leads in a desired direction and eventually guarantees the decision we want to achieve. (Manager, domestic HTA company)

Most importantly, ambiguity associated with the flex methods of influence made them inherently difficult to detect.

> Rumour has it that drug companies attempt to influence politicians but I cannot prove anything [...]. After a series of press publications a few years ago this has become more discreet and less prevalent. (Journalist, daily paper)

We now move to the group level of analysis to look at cooperation between individual institutional nomads.

Elite cliques

The institutional nomads we identified belonged to elite cliques, most prominently exemplified by a network of HTA experts operating at the intersection of the state and the pharmaceutical sector, whose activity can be inferred from documentary data (AHTAPol 2007, 2009; see also Niżankowski and Wilk 2009). Most of its core members came from the same geographical area, received similar education in medicine and public health, and then training in state organizations introducing HTA to Poland. Subsequently, they usually

established HTA firms or joined multinational drug companies, while a few others continued working as state officials or academics. After a few years, the group cooperated again in drafting guidelines on how the AHTAPol should evaluate HTA reports supporting reimbursement applications, developed primarily by their own HTA firms (Polak 2011 describes other examples of clique activity).

Consistent with Wedel's (2001) characterization of foreign aid almost 20 years before, the near-monopolization of exclusive expertise enabled this clique to become a broker between multinational drug companies and local health authorities. This introduced a complex interplay of science and personal relationships at the intersection of the AHTAPol, the public HTA agency, and private HTA firms working for pharmaceutical companies.

> When an AHTAPol official receives a HTA report, he can tell that it has been prepared by a so and so. It's not that this report will get a better mark. This official will simply know that this report will be good, reliable. And, on the other hand, he knows where the author makes silly mistakes. It works. These are former colleagues. It is much easier to read and rate a colleague's report. You trust your colleague more than a stranger on the street. You have to consider the human factor. (External affairs manager, multinational drug company)

> Some people have greater capabilities [to meet with AHTAPol officials] than others. If a [pharmaceutical] firm lacks them, it translates into limited access. And I am not even talking about 'fixing' here, but just about simple access. (Communications manager, multinational drug company)

Given its unique position, the clique was unaffected by changes in the politically nominated leadership of the AHTAPol. The immunization of clique activity from party politics was a broader feature of the reimbursement process, which seemed to result from reliance on expert medical and procedural knowledge. For example, prominent civil servants, medical experts and industry representatives remained in their positions for years, and even

political nominees often returned as representatives of associations of the pharmaceutical industry.

Drawing on personal relationships and shared biographies cliques were instrumental in pooling together resources and coordinating influence exerted by institutional nomads.

> Trust plays the key role. If you know someone very well, you trust them and you have more confidence that you won't hit a landmine. (Key account manager, multinational drug company)

Alternatively, loyalty could be forced on non-complying members (Zybertowicz 2005), as indicated by the limited conflicts of interest disclosure.

> This information translates into great power, particularly it allows [political elites] for manipulating people on whom they have collected dirt. This mechanism is similar to that used by communist secret services in relation to their secret collaborators. The message is clear: 'If you want to make money peacefully, just do your job.' Thus, instead of ensuring the impartiality of [expert] recommendations, the declarations [of conflicts of interest] are *de facto* […] employed to mute potential opponents. (Manager, domestic HTA firm)

Coincidences of interest generated within cliques were even more difficult to detect and manage than those resulting from overlapping roles played by institutional nomads.

> I learnt that Y [a high-ranking MoH official] had relationships with firm Z. I came to know this from my colleague who had spoken with Y, so this was not gossip but information. I felt that it was my civic duty to call [Y's superior] and report this case. But nothing happened. (Journalist, daily paper)

This was primarily because the social milieu dealing with drug reimbursement often viewed coincidences of interest as a taboo belonging to the private sphere.

> In the West, people are used to conflicts of interest. […] In Poland, the situation is different. None of the members of [a ministerial advisory body] has declared a

> conflict of interest. […] After all, this body comprises doctors and even representatives of an association of drug companies. And even this person claims he has no conflict of interest. This is absurd, they defy reality! (Middle-ranking official, MoH)

Therefore, even the discovery of serious irregularities in the policy process was often left without any consequence, suggesting that some high-ranking officials were 'unsinkable' (Polak 2011: 348). Alternatively, instances of misconduct were dealt with quietly, without public denunciation, and those involved were provided with 'landing strips' in the pharmaceutical sector (Polak 2011: 348), namely lucrative career opportunities provided by drug companies reciprocating past favours.

> [T]he Ministry […] loosened cooperation with the previous [national] consultant [a senior ministerial adviser] because he agreed to support a treatment programme [...] developed by a drug company. The firm called it a 'national programme' and the national consultant was the chairman [...] [T]he term 'national' is reserved for governmental initiatives but here we had an initiative coming from non-governmental entities. And the national consultant legitimised it as a representative of the Ministry. This is backstairs information, really… Officially, the consultant resigned. (National consultant)

> Many ex decision-makers establish their own firms and search for contracts from drug companies which owe them something. For the pharmaceutical firms, this situation is like a skeleton in the closet. (Key account manager, multinational drug company)

While our interviewees commonly conceded that reimbursement policy-making was often premised on informal relationships within cliques, there were some opposing voices.

> There're people who maintain some distance while being on [official] posts. It's not that everyone goes to drink vodka with anyone. Lobbyists can get this impression because it's them who pay for this vodka. (Journalist, weekly paper)

Conclusion

Building on Wedel's ethnography, we developed an explanation of why it was possible that drug reimbursement, a key part of Poland's pharmaceutical policy, displayed a combination of suboptimal outcomes, irregularities in decision-making, and limited accountability of key stakeholders. Our data indicates four mechanisms generating deniability in reimbursement policy-making.

Consistent with the patterns of manipulation of the state-private divide (Wedel 2001, 2004), unclear boundaries between different types of state authority allowed political elites to reduce the perception of blame for controversial policy decisions, without sacrificing control over the policy process. The blame avoidance strategies we identified followed the agency types described by Hood (2011a, 2011b) in Western bureaucracies. It appears, however, that Poland's reimbursement process offered a greater scope for 'behind-the-scenes intervention and arm-twisting' (Hood 2011b: 90), drawing on regulatory loopholes and informal mechanisms of control.

At the individual level, boundaries between the public, private and third sector were crossed by institutional nomads. In the absence of strong monitoring mechanisms, these actors amassed insider knowledge and connections through establishing coincidences of interest involving overlapping roles in different institutional settings. This finding corresponds with Wedel's (2001, 2009) observations from policy contexts ranging from privatizations to media regulation.

Institutional nomads deployed their resources through 'flexible' methods of influence, which could be classified as offensive or defensive (Clamen 2005). Regarding specific methods, informal fixing and managing identities closely resembled two fundamental techniques described by Wedel (2009) – 'personalising bureaucracy' and 'juggling roles and representations'. Nevertheless, informal fixing was broader than personalizing bureaucracy,

as it also concerned using connections to politicians and experts. Separately, attachment and buffering were similar to the repertoire of postcommunist secret services, including methods like 'kompromat' (Zybertowicz 2005; Ledeneva 2006: chapter 3).

Finally, institutional nomads' activities were coordinated by elite cliques, mediating between the local reimbursement system and multinational drug companies. The methods of coordination, ranging from trust to complicity, reflected those described by Wedel (2001) and Zybertowicz (2005) in relation to other informal actors in transition. Furthermore, a high level of tolerance for conflict of interest within cliques reflected the attitudes of the postcommunist power elite *en large* (Wedel 2001). Also like Wedel (2001), we found that clique power was founded on the monopolization of unique technical expertise newly introduced to Poland.

While deniability constituted a serious issue in Poland's reimbursement policy, we could not determine its full extent, a problem also reported in Wedel's ethnography (2009: chapter 1). Like Wedel's (2004, 2009) earlier research into irregularities in postcomunist policy-making, ours faced a limitation related to inferring possible mechanisms of deniability from 'positive cases' rather than a mixed sample comprising both successful and failed attempts at securing unaccountability. Furthermore, while seeking theoretical saturation based on our interview dataset, it is unlikely that we identified mechanisms universally constituting necessary conditions for deniability, as institutional nomads and their cliques have every interest in expanding this repertoire. Similarly, the mechanisms we characterize may not always be sufficient causes of deniability, because, as we noted, their operation may be constrained by other factors, such as insufficient personal connections. Following the logic of grounded theory, our propositions should therefore be tested as explanatory hypotheses in future research systematically tracing the development of a random sample of reimbursement

decisions, a rigorous design likely to face challenges in obtaining relevant documentation protected by state and commercial secrecy.

The clique theory, as elaborated by our study, offers several distinctive insights into the nature of the Polish postcommunist state. Unlike mainstream analyses of parliamentary, governmental and business elites using traditional positional indicators of power (Raciborski 2006), it highlights that power may be concentrated by informal groups operating at the intersection of various state organizations and other sectors. Likewise, the complexity of 'flexible' methods of influence suggests that analyses applying the notion of lobbying familiar from the Western literature (McMenamin 2005) may overlook key aspects of power under postcommunism. Furthermore, in contrast to research on clientelism, concerned with vertical bonds of loyalty between patrons and clients (Gadowska 2002), our account places more emphasis on horizontal mechanisms integrating postcommunist elites. Lastly, we highlight strong links between power and unaccountability by demonstrating that actors enjoying the greatest power tend to be the ones least accountable based on democratic, bureaucratic and market regulations. This observation may help explain a key paradox of the postcommunist transition, namely that key actors in prominent corruption scandals have typically eluded serious charges (Sojak and Wicenty 2005).

We may safely expect that our conclusions will hold true in other technologically advanced sectors dominated by Western multinationals, which, like pharmaceutical companies, are likely to rely on well-connected cliques in negotiations with local elites. For example, similar mechanisms of influence have been reported in relation to telecommunications (Zybertowicz and Pilitowski 2009), media regulation (Wedel 2009: 63–8) and banking (Jasiecki 2013: 268–9). While clique activity has also been identified in heavy-industry sectors with significant state ownership, such as coal mining (Gadowska 2002), it is less distinguishable from other forms of 'state capture', such as clientelism or

nepotism (Gadowska 2002; Jarosz 2001). More broadly, our argument about the 'persistence of cliques' below the uppermost levels of the power structure is consistent with Jadwiga Staniszkis' (1999) influential theory of postcommunist 'political' and 'public sector' capitalism, emphasizing the role of informal elite negotiations and power brokers in postcommunist transition.

Furthermore, our conclusions appear generalizable to the Visegrad countries of CEE (the Czech Republic, Slovakia and Hungary), which, according to Wedel (2001), share essential features of the Polish variety of the postcommunist state. In particular, the pharmaceutical sectors in the region, also dominated by Western multinationals, display widespread informal mechanisms of influence similar to the ones identified by our study (European Commission 2013). This corresponds with the well-documented role of informal networks bridging the public and private sectors in early privatizations (Stark 1996). The persistence of informal relationships between political and economic elites is further confirmed by more recent case studies across the region (Meyer 2006). Beyond the Visegrad countries, elite networks resembling Wedel's cliques have wielded major policy influence in Bulgaria (Ganev 2007) and Romania (Verdery 1996). Against this background, a rigorous application of the clique framework offers scope for integrating this diverse literature into a coherent theory of the postcommunist state.

The potential of the emerging clique theory to explain postcommunist policy-making should not be equated, though, with an argument about the uniqueness of the postcommunist state. More recently, Wedel (2009) has rejected the prevalent view about the direction of convergence between postcommunist and Western states. Her 'new theory of power and influence' holds that the trend toward deregulation and establishing public-private partnerships has caused Western states to acquire characteristics similar to those earlier identified in CEE. Thus, blurred institutional boundaries, institutional nomads and cliques

have been replicated as ‘flex organisations’, ‘flexians’ and ‘flex nets’ in the West (Wedel 2009). In this respect, our study suggests that much insight could be gained from integrating Wedel’s analysis of informal actors and processes of influence with Hood’s research on formal mechanisms of blame avoidance in Western bureaucracies.

The potential to apply Wedel’s account outside postcommunism raises the question about its relationship with the classical theories of the state. There is little common ground, we suggest, between the clique theory and pluralism, with the latter emphasizing well-defined interest groups, lobbying as a linear communication process, and politicians’ responsiveness to the electorate (McFarland 2004). Furthermore, unlike Wedel’s theory, historical institutionalism posits the concentration of power within state bureaucracy, the *esprit the corps* of career civil servants, and clear-cut distinctions between different types of state authority and between the public, private, and third sector (Skocpol 1985). What Wedel’s position shares with elitism is an interest in the revolving door between different sectors and the resulting diverse organizational backgrounds of the power elite. However, for Mills (2003) the ruling group still comprises top-level elites, not power brokers situated below the highest level of organizational hierarchies.

The analysis of institutional nomads’ methods of influence can be integrated with the notion of ‘processes of power’ in corporate domination theory and related concepts in ‘instrumental Marxism’, while in the context of pharmaceuticals it can inform work from the neoliberal corporate bias perspective. Specifically, the notion of institutional nomads may be used to advance our understanding of new intermediaries in the lobbying process at the firm or sectoral level (Domhoff 2006), such as scientific consultancy firms or contract research organizations operating in the pharmaceutical sector. Unlike traditional lobbying companies, these actors draw resources from multiple domains, including bureaucracy, science, media, or civil society. Similarly, ‘juggling roles and representations’ is an inherent feature of the ‘third

party technique', whereby seemingly independent but in fact tightly controlled actors become a source of endorsements for multinationals (Miller and Dinan 2007). In particular, 'assimilated allies' like patient organizations or medical experts are used extensively in pharmaceutical marketing and lobbying (Abraham 2009; Davis and Abraham 2011). More generally, Wedel's techniques of generating deniability resemble the 'opinion-shaping process' (Domhoff 2006) or 'processes of legitimation' (Miliband 1973), instrumental in creating deniability in relation to the spillovers created by the societal dominance of the capitalist class.

The most significant difference between the clique theory, on the one hand, and corporate domination theory and instrumental Marxism, on the other, concerns the composition of the dominant class. While for Domhoff and Miliband it comprises an integrated network of big capitalists, Wedel posits the existence a number of small cliques of well-connected power brokers working on behalf of Western multinationals. Their power does not derive ultimately from common ownership of the major means of production, but from their social networks and their history in state bureaucracies. In this respect, Wedel's account resembles, therefore, the 'structural' Marxist argument about the role of 'comprador classes', such as local cliques, in dominating global peripheries (Poulantzas 1976).

Notes

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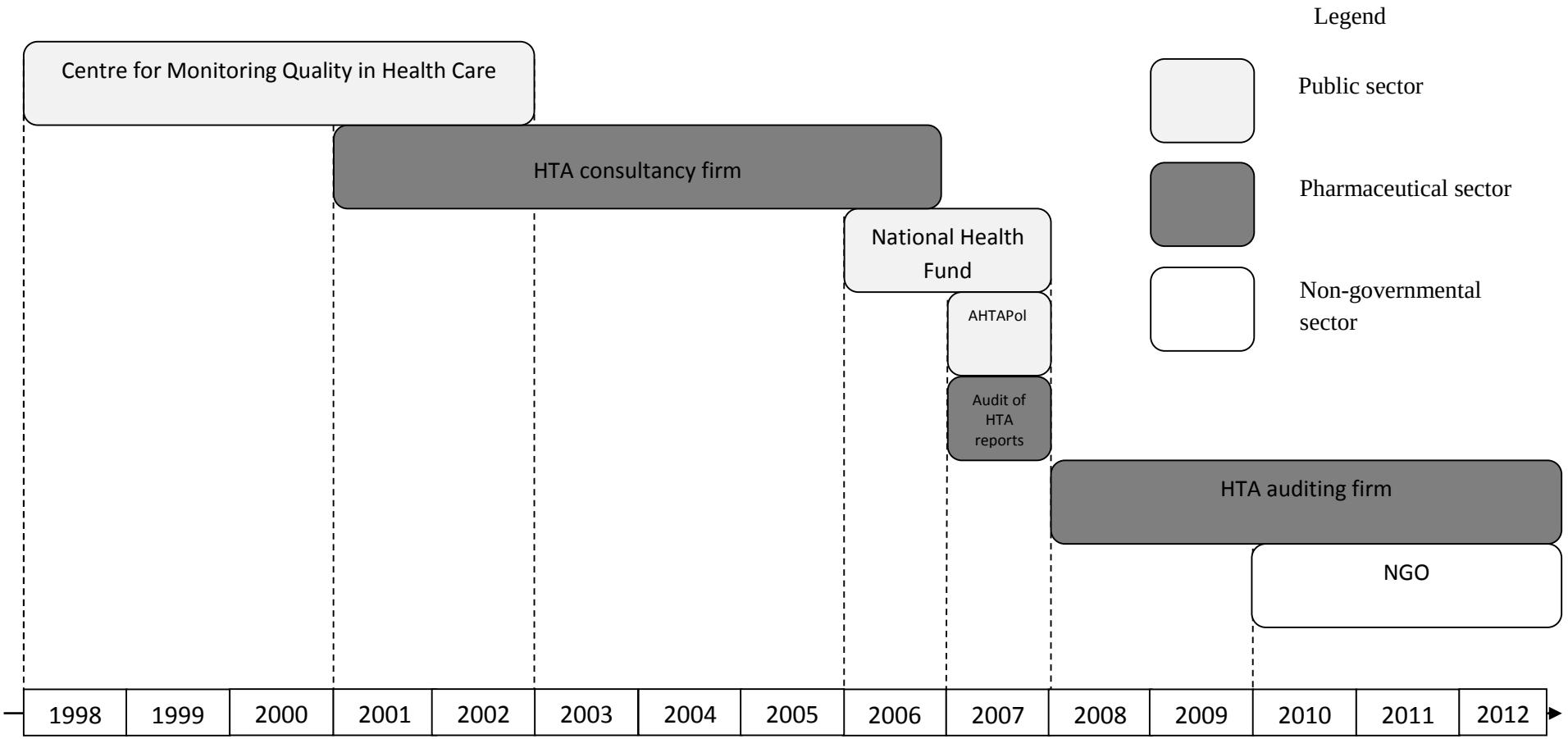
Tables

Table I Interviewee sample

Organization	Number of interviews
Ministry of Health	21
National and regional consultants	4
National Health Fund	3
Agency for Health Technology Assessment	8
Parliament	8
Multinational pharmaceutical companies	17
Associations of innovative drug companies	2
Associations of generic drug companies	3
Chamber of commerce associating multinational drug companies	1
American Embassy	1
Law firms	4
Lobbying firms	3
Freelance lobbyist	1
Public relations firms	4
HTA firm	2
Contract research organization	2
Pharmaceutical market consultancies	2
Patients' organizations	7
Journalists	6
Medical doctors dealing with drug reimbursement in their professional activity	10
Total	109

Figures

Figure I ‘Person X’ – a case of social mobility between stakeholders in reimbursement policy-making



Sources: Publically available documents and information on organizational and social networking websites. Notably, X’s curriculum vitae does not mention the fact of working at the AHTAPol and developing commercial evaluations of HTA reports in 2007

Figure II Examples of bridging different sectors by institutional nomads